

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

February 17, 2016

Telephonic Meeting

### **MINUTES**

#### **DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Elizabeth Harris, Assistant Attorney General  
Amber Nielsen, Board Secretary  
Mark Schaerrer, Investigator  
Van Kagie, Investigator  
Kadee Wright, Investigator  
John Bickmore, Investigator  
Jill Kelsch, Division Staff

#### **COMMISSION MEMBERS PRESENT:**

Russell K. Booth, Chair  
Lerron Little, Vice Chair  
Lori Chapman, Commissioner  
William O. Perry, IV, Commissioner  
Calvin R. Musselman, Commissioner

#### **GUESTS:**

Tammy Lund	Susan Aguilar
Kreg Wagner	Dan Naylor
Brian Swan	Shane Norris
Kevin Swenson	

The February 17, 2016 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Vice Chair Little conducting.

## **PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes – A motion was made and seconded to approve the minutes as written from the January 20, 2016 meeting of the Commission. Vote: Chair Booth, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved.

Vice Chair Little opened the floor to public comment. There was no public comment today.

## **DIVISION REPORTS**

### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported on the Legislative Session. Director Stewart just received a copy of the Division Bill from the drafter this morning. Director Stewart will forward the draft bill to the Commissioners once the meeting is over. None of the recommendations have changes since the Commission last discussed the bill. Director Stewart hopes the bill will be numbered quickly.

Director Stewart reported on other bills of interest. House Bill 321 is the TIC Bill the Division has been working on with Representative Greene and the administrative rules that work in conjunction with that bill. There will be a hearing on that bill tomorrow morning at 8:00 am which Director Stewart will be attending. Senate Bill 30 is a bill sponsored by Senator Bramble called "Commerce Boards, Committees, and Commissions" has passed in the Senate and House which makes all Divisions and Commissions have concurrence on rule making decisions. House Bill 118 is "Public Access Administrative Action Amendments" which is sponsored by Representative Greene would make administrative actions that are in compliance non-public after a specific period of time. There are two provisions. The first would require administrative agencies to remove disciplinary actions from public facing websites within 10 years if licensee complied with the terms of the disciplinary action and has had no other disciplinary action. The second provision would allow a licensee to petition for the removal of the disciplinary action within five years. This bill has passed the house. Director Stewart reported there are two unnumbered bills of interest: Real Estate Purchase Amendments sponsored by Representative Ray; and Real Estate Licensing Amendments by Representative McCay. This bill would address the requirements of a licensee to reinstate an expired license. This would extend the reinstatement period. Director Stewart does not have any specifics on what is being proposed in this bill. Chair Booth does not believe we should loosen the requirements. The Commission agrees with Chair Booth.

### **ENFORCEMENT REPORT – Jeffery Nielsen**

Mr. Nielsen reported in the month of January the Division received 24 complaints; opened 33 cases; closed 13 cases; leaving 302 open cases. There are 59 cases assigned to the AG's office.

Stipulation for Review

Joshua Winn  
Jerry A. Ingram  
Deborah Ingram  
Sandra Goldman  
David L. Parker

**EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren reported there has been a 7% growth in past eleven months.

Mr. Fagergren announced there will be nine caravan dates throughout the state. The dates and locations are: Vernal, April 19 at 9:00 am; Park City, April 21 at 9:00 am; Logan, April 26 at 1:00 pm; Layton, May 3 at 9:00 am; Provo, May 5 at 9:00 am; Moab, May 10 at 9:00 am; Richfield, May 11 at 9:00 am; Cedar City, May 12 at 9:00 am; and St George, May 13 at 9:00 am.

Mr. Fagergren addressed some of the concerns raised by the proposition of licensing Branch Schools. Mr. Fagergren reported the request for licensing Branch Schools has been withdrawn.

There are no education stipulations for review.

**HEARING OFFICER REPORT/COMMISSION AND INDUSTRY ISSUES – Justin Barney**

There are no licensing stipulations for review.

Mr. Barney reported the gifts and inducements rule change proposal passed the public comment period without receiving any public comment. It was clarified there was no language regarding charitable contributions included in the proposed rule. A motion was made to make the rule effective at the earliest effective date. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved with concurrence from Director Stewart.

Vice Chair Little asked Mr. Nielsen if the increase in the new cases opened indicates a trend regarding enforcement complaints. Mr. Nielsen stated the increase is due more to getting caught up and working through the back log.

Mr. Fagergren stated that he feels HB 118 could be beneficial regarding minute offenses, like Blind Ads; but is concerned this will be harmful to the public for more egregious offenses. Director Stewart stated this will not remove the disciplinary action from the Division records; this only removes the disciplinary action from the public facing websites.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved.

### **CLOSED TO PUBLIC**

An Executive Session was held from 9:55 a.m. to 10:14 a.m.

### **OPEN TO PUBLIC**

#### **Results of Executive Session**

##### Results of Stipulations

Joshua Winn – Approved with Division Concurrence  
Jerry A. Ingram – Approved with Division Concurrence  
Deborah Ingram – Approved with Division Concurrence  
Sandra Goldman – Approved with Division Concurrence  
David L. Parker – Approved with Division Concurrence

Commissioner Chapman had a question regarding the expiration on a referral form. Vice Chair Little asked if there was a state approved referral form. There is not. The general consensus is that unless there is a date on the form there is not an expiration date.

A motion was made and seconded to adjourn the meeting. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved. The meeting adjourned at 10:18 a.m.